IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

Crl.Rev.Pet.No. 597 of 1999

CRA.184/1996 of SESSIONS COURT, THRISSUR
CC.161/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR
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REVN. PETITIONER/APPELLANT/ACCUSED:

ANTOO, S/O. VARUNNI,
MADAPRANATHUKARAN HOUSE,
ANCHERRY, OLLUR.

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNKAULAM.

BY PUBLIC PROSECUTORMR. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO. 2669 OF 1999 IN CRL.R.P.NO. 597 OF 1999IN

DISMISSED.

19-3-2007 SD/-K.R.UDAYABHANU,JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.597 of 1999

DATED THIS THE 19th DAY OF MARCH 2007

ORDER

The revision petitioner stands convicted for the offence under Section 379 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for two months more. The prosecution case is that on 13-12-1994 at 10.45 a.m. the accused attempted to pickpocket CW1 while he was travelling in bus KLH 4876 from the bus stop near the Medical College Hospital, Thrissur and committed theft of purse containing Rs.1500/- by cutting the underwear pocket of CW1.

2. The direct evidence in the matter consisted of the testimony of Pws.1 and 2 who were the co-passengers in the particular bus. The evidence is to the effect that PW1 immediately noticed the act of cutting of the underwear pocket and taking away of the purse. He caught hold of the accused by his shirt collar, but the accused handed over the purse to another person who got down from the bus and ran away. The accused

was brought to the police station and the case was registered. PW3, the Conductor of the bus has turned hostile as he allegedly declined to identify the accused. The evidence of Pws.1 and 2 is consistent and corroborate with each other. No contradictions or omissions with respect to the previous statements has been brought out from the evidence of PW6, the investigating officer. I find that the contention that the Mos. were not recovered and produced is no reason as such to suspect the prosecution version in view of the direct evidence of Pws.1 and 2. Hence, I find no ground to interfere in the findings of the courts below with respect to the conviction of the accused is concerned.

3. Counsel has pleaded for leniency pointing out that the accused has no previous or subsequent conviction and that the incident has taken place more than 10 years back, i.e. in 1994. The plea of counsel for the petitioner is that the Probation of Offenders Act is applicable in this case. I find the same cannot be accepted in view of the nature of the offence.

4. All the same, considering the fact that so long the

revision petitioner was facing the prosecution etc. the sentence is modified to imprisonment for one month and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for one month. If he has undergone any pre-trial detention, the same shall be set off. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.597 OF 1999

ORDER

19-3-2007